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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,891	06/09/2005	Bud G. Harmon	32-02 US	6483
23713	7590	03/27/2006	EXAMINER	
GREENLEE WINNER AND SULLIVAN P C 4875 PEARL EAST CIRCLE SUITE 200 BOULDER, CO 80301			SAYALA, CHHAYA D	
			ART UNIT	PAPER NUMBER
			1761	

DATE MAILED: 03/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/511,891

Applicant(s)

HARMON ET AL.

Examiner

C. SAYALA

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 8/11/05.

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harmon et al. (US Patent 6235339) in view of Roets (US Patent 4559146) and the admitted prior art in the specification at page 5, lines 6-10, and further in view of Kaczmarek et al. (US Patent 4983297), Fullerton et al. (US Patent 4085041) and Othmer (US Patent 3772187).

Harmon et al. teach that using magnesium chloride instead of the prior art usage of iron chloride is beneficial. (See col. 4, lines 28-41). Harmon et al. teach treating organic waste streams containing animal fat, blood, tissue, etc. The amount of magnesium chloride: 0.5-5.0% by vol. The patent does not teach aeration. It does teach the magnesium chloride-dissolved air flotation process and the removal of the flocculated material. See col. 3, lines 60-67. The patent also teaches reducing the BOD to less than about 750 ppm. See claim 5.

Roets teaches chemically treating proteinaceous waste, and then aerating using a venture type system. Foam formed is removed during the aeration. See the claims that describe the steps. See col. 1, lines 54+ and col. 2, lines 29-32. In this regard,

Fullerton et al. teach at col. 2, lines 1-10, that oxygen aeration produces foam that is typically undesirable, which rises to the top and is removed.

The specification discloses that the aeration is performed as is known in the art. The prior art listed therein is said to accomplish the aeration. Othmer teaches coagulating and flocculating waste first before aeration, and then using a Venturi system for the aeration (col. 2, line 4, col. 4, lines 48-50) to reduce BOD (line 56). As for the time used for aeration, lines 15-25 (col. 4) teaches some of the parameters determine this. However, aeration time will depend on the degree of reduction of BOD required in the effluent. See also col. 10, lines 42-44. Kaczmarek et al. is used here only to show that aerobic waste treatment also is used because the method decreases BOD. See col. 4, lines 46-49.

It would have been obvious to combine the chemical treatment of proteinaceous wastes of Harmon et al. with an aeration step as is shown by Roets, which is also drawn to the same endeavor and uses iron chloride instead of magnesium chloride, which is followed thereafter by aeration. Since Kaczmarek et al. teach that aeration also reduces BOD in waste treatment, then such disclosure provides the motivation to combine Harmon et al's magnesium chloride treatment to reduce BOD with aeration to reduce BOD, in the same manner as Roet, i.e. chemical treatment followed by aeration. It would also have been obvious to remove any foam formation for the reasons shown by Fullerton et al. and Roets. To use any aeration system, including the Venturi system as shown by Othmer would have been obvious, barring any evidence to the contrary. To determine the level of dissolved oxygen as claimed in claim 2, would have been

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within the realm of the ordinary practitioner and would have been dependent on the initial BOD level and the final BOD level desired by the practitioner.


Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. SAYALA whose telephone number is 571-272-1405.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



C. SAYALA
Primary Examiner
Group 1700.